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words why expressly say the buyer takes the risk, when he already has the title and the two go together? The inference is criticised in WILLISTON, SALES, § 302, on the ground that the parties mention only the salient points in their contract, that the question of risk is one that naturally presents itself for settlement, and that the abstruse point of passage of title is one of which they do not think. And WILLISTON infers that the party in whom the risk was placed was intended to have the title, since the two commonly go together; unless, indeed, the contract was drawn up by one skilled in the law.

**STREET RAILWAYS—OVERCROWDING CARS.**—Plaintiff boarded a crowded street car, and, upon leaving the car, was thrown to the ground and injured. Plaintiff's evidence on this point showed only that the car was overcrowded. Held, that the lower court properly directed a verdict for the defendant. *Seale v. Boston Elevated Ry. Co.* (Mass. 1913), 100 N. E. 1020.

It is not negligence as a matter of law, on the part of a street railway company, to permit a car to become crowded with passengers. NELLIS, STREET RAILWAYS, (2nd ed.), § 313; *Buchter v. N. Y. City Ry. Co.*, 90 N. Y. Supp. 335; *McCumber v. Boston Elec. Ry. Co.*, 207 Mass. 559, 93 N. E. 698, 32 L. R. A. (N. S.) 475; *Schmidt v. Inter. Rapid Transit Co.*, 97 N. Y. Sup. 390, 49 Misc. Rep. 255; *Houston & Texas Central Ry. Co. v. Bryant*, 31 Tex. Civ. App. 483, 72 S. W. 885; *Lobner v. Metrop. St. Ry. Co.*, 79 Kan. 811, 101 Pac. 463; *Burns v. Boston Elec. Ry. Co.*, 183 Mass. 96, 66 N. E. 418; *Le Barge v. Union Elec. Co.*, 138 Ia. 691, 116 N. W. 816. It has been held, however, that "when a street railway company undertakes to carry large numbers of people, vastly in excess of the seating and standing capacity of its cars, and permits passengers to ride on the platform, stops its car when in such crowded condition, that other persons may get upon it, and, because of the crowd, a passenger, who has boarded the car before it became crowded, is pushed off a platform to his injury, the company is guilty of negligence." *Reem v. St. Paul City Ry. Co.*, 77 Minn. 503, 80 N. W. 638; *Graham v. McNeill*, 20 Wash. 466, 55 Pac. 631, 43 L. R. A. 300, 72 Am. St. Rep. 121. It becomes the duty of the carrier to exercise additional care commensurate with the perils and dangers in which the passengers are placed by reason of the overcrowded condition of the car. *Lynn v. Pac. Ry. Co.*, 103 Cal. 7; *Chi. and Western Ind. R. Co. v. Newell*, 113 Ill. App. 263; *McCaw v. Union Traction Co.*, 205 Pa. St. 271, 54 Atl. 893; *LaBarge v. Union Elec. Co.*, *supra*; *Morris v. Chi. Union Traction Co.*, 119 Ill. App. 527; *Hansen v. North Jersey St. Ry. Co.*, 64 N. J. L. 686, 46 Atl. 718; *Verrone v. R. I. Sub. Ry. Co.*, 27 R. I. 370, 4 St. Ry. Rep. 974, 62 Atl. 512; *Norvell v. Kanawha and M. Ry. Co.*, 67 W. Va. 467, 68 So. 288. It is not negligence *per se* for a passenger to ride on the platform of a car. He may do so if the crowded condition of the car requires it. *Halverson v. Seattle Elec. Co.*, 35 Wash. 600, 77 Pac. 1058; *Graham v. McNeill*, 20 Wash. 466, 55 Pac. 631, 43 L. R. A. 300, 72 Am. St. Rep. 121; *Norvell v. Kanawha and M. Ry. Co.*, *supra*; *Verrone v. R. I. Sub. Ry. Co.*, *supra*; *Lobner v. Metrop. St. Ry. Co.*, *supra*; BEACH, CONTRIBUTORY NEGLIGENCE, (2nd Ed.) § 149. It has been held, however, that the passenger assumes the risk of any danger naturally to be expected from overcrowding,

whether the car became overcrowded before or after the plaintiff got on. *McCumber v. Boston Elev. Ry. Co.*, 207 Mass. 559, 93 N. E. 698, 32 L. R. A. (N. S.) 475.

TORT—DAMAGES FOR MENTAL ANGUISH CAUSED BY ASSAULT.—Defendant called plaintiff up by phone and spoke in violent language to her. Plaintiff, who was in an enfeebled condition, suffered bodily pain and mental anguish therefrom, and sues for damages. *Held*, she can not recover. *Kramer v. Ricksmeier* (Ia. 1913), 139 N. W. 1091.

The consequences of an act, to sustain a recovery, must be such as, in the ordinary course of things, would flow from the act and could be reasonably anticipated as a result thereof. *Braun v. Craven*, 175 Ill. 401, 51 N. E. 657, 42 L. R. A. 199. The courts hold unanimously that where the consequences of the defendant's wrong doing are limited to the mental disturbance of the plaintiff, and the wrongdoing is not actionable in behalf of the plaintiff, apart from such consequences, any harm sustained by the plaintiff is deemed *damnum absque injuria*. *Kalen v. Terre Haute Ry.*, 18 Ind. App. 202, 47 N. E. 694, 63 Am. St. R. 343; *Turner v. Great Nor. Ry.*, 15 Wash. 213, 46 Pac. 243; *Zabron v. Cunard Steamship Co.*, 151 Ia. 345, 131 N. W. 18, 34 L. R. A. (N. S.) 751. However, in cases where such mental disturbance causes physical derangement, the holdings are irreconcilable. Some courts deny liability, *St. Louis etc. Ry. v. Bragg*, 69 Ark. 402, 64 S. W. 226, 86 Am. St. Rep. 206; *Braun v. Craven*, *supra*; *Kansas City Ry. v. Dalton*, 65 Kan. 661, 70 Pac. 645; *Morse v. Chesapeake Ry.*, 117 Ky. 11, 77 S. W. 362; *Ward v. West Jersey Ry.*, 65 N. J. L. 383, 47 Atl. 561; *Nelson v. Crawford*, 122 Mich. 466, 81 N. W. 335, 80 Am. St. Rep. 577; *Arthur v. Henry*, 157 N. C. 393, 73 S. E. 211. Other courts hold that there is a liability if the plaintiff can show, not only that defendant's conduct was wrongful towards someone, but that it was a breach of a legal duty owing to plaintiff by defendant. *Dulieu v. White*, [1901], 2 K. B. 669, 70 L. J. K. B. 837; *Watson v. Dilts*, 116 Ia. 249, 89 N. W. 1068; *Ford v. Schliessman*, 107 Wis. 479, 83 N. W. 761; *Gulf Col. etc. Ry. v. Hayter*, 93 Tex. 239, 54 S. W. 944, 77 Am. St. Rep. 856, 47 L. R. A. 325. The principal case further holds that the action cannot be sustained on the theory that an assault is charged. Mere words, even at short range, do not constitute an assault. *Irlbeck v. Bierl*, 101 Ia. 242, 67 N. W. 400; *Grayson v. St. Louis Transit Co.*, 100 Mo. App. 60, 71 S. W. 730. In the principal case the words were spoken over the telephone. It is significant that the court expressly refrained from intimating an opinion as to the liability of the defendant if he had known the condition of the plaintiff was so enfeebled that she could not endure such speech.

TRIAL.—MOTION TO DISMISS AFTER OPENING STATEMENT.—In an action to recover commission for the sale of certain real estate, the petition alleged that the plaintiff had sold the property on commission pursuant to an agreement made with the defendant owner. The counsel for the plaintiff in the opening statement to the jury stated that he would establish the alleged contract by virtue of a certain conversation, occurring between plaintiff and defendant, and gave the conversation in detail. On motion of the defendant,